

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

FILED

MAY 23 2018

Clerk, U S District Court
District Of Montana
Billings

JOSHUA P. SCARBOROUGH,

Petitioner,

vs.

STATE OF MONTANA, ATTORNEY
GENERAL OF THE STATE OF
MONTANA,

Respondents.

CV 18-48-BLG-SPW

ORDER ADOPTING
MAGISTRATE'S FINDINGS
AND RECOMMENDATIONS

The United States Magistrate Judge filed Findings and Recommendations on April 9, 2018. (Doc. 5). The Magistrate recommended the Court dismiss the petition for writ of habeas corpus without prejudice for failure to exhaust. (Doc. 5 at 7).

Pursuant to 28 U.S.C. § 636(b)(1), parties are required to file written objections within 14 days of the filing of the Magistrate's Findings and Recommendation. No objections were filed. When neither party objects, this Court reviews the Magistrate's Findings and Recommendation for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been committed." *United States v. Syrax*, 235 F.3d

422, 427 (9th Cir. 2000). After reviewing the Findings and Recommendation, this Court does not find that the Magistrate committed clear error.

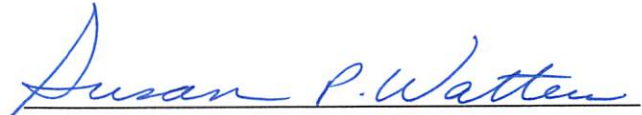
IT IS ORDERED that the proposed Findings and Recommendations entered by the United States Magistrate Judge (Doc. 5) are ADOPTED IN FULL.

IT IS FURTHER ORDERED that the petition for writ of habeas corpus (Doc. 1) is DISMISSED without prejudice.

IT IS FURTHER ORDERED that the Clerk of Court is directed to enter by separate document a judgment in favor of Respondents and against Petitioner.

IT IS FURTHER ORDERED that a certificate of appealability is DENIED.

DATED this 23rd day of May, 2018.


SUSAN P. WATTERS
United States District Judge